

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAVIER SALAZAR, JR., *et al.*

Defendants.

Case No. 1:23-cv-01282-CDB

ORDER GRANTING *EX PARTE*
APPLICATION TO CONTINUE
SCHEDULING CONFERENCE

ORDER REQUIRING SERVICE AND
FILING OF SUMONSES RETURNED
EXECUTED OR STATUS REPORT

(Doc. 5)

Deadline: December 1, 2023

On August 28, 2023, Plaintiff United States of America initiated this action with its filing of a complaint against Defendants Javier Salazar, Jr., Javier Salazar, Sr., and Ricardo Covarrubias. (Doc. 1). That same date, the Clerk of Court issued summonses and the Court entered an Order setting a mandatory scheduling conference. (Docs. 2, 3). The Order directed Plaintiff to “diligently pursue service of summons and complaint” and “promptly file proofs of service.” The Order further advised Plaintiff that failure to diligently prosecute this action “may result in the imposition of sanctions, including the dismissal of unserved defendants.”

With respect to service, where a plaintiff fails to serve a defendant within 90 days after the complaint is filed, Rule 4(m), Fed. R. Civ. P. requires the Court to dismiss the action or order that service be made within a specified time upon a showing by the plaintiff of “good cause” for

1 the delay. *See In re Sheehan*, 253 F.3d 507, 512 (9th Cir. 2001).

2 Pending before the Court is Plaintiff's *ex parte* application to continue the scheduling
3 conference set for November 20, 2023. (Doc. 5). The application is supported by the declaration
4 of counsel for Plaintiff in which he attests that Plaintiff mailed to each Defendant waivers of
5 service, but otherwise has not attempted to effect service. *Id.* at 3. Counsel further attests that,
6 in light of his having not received responses from Defendants to the waivers, he anticipates
7 needing to effect personal service. Because of the upcoming holidays, counsel asserts good
8 cause exists to continue the scheduling conference to allow for additional time to effect service,
9 for Defendants to seek counsel, and for the parties to prepare for the scheduling conference. *Id.*

10 In light of Plaintiff's representations and good cause appearing, IT IS HEREBY
11 ORDERED, the November 20, 2023 scheduling conference is reset to January 29, 2024, at 9:00
12 AM. before Magistrate Judge Christopher D. Baker. The parties are reminded of their obligation
13 to file a joint scheduling report at least one week prior to the conference. (Doc. 3).

14 IT IS FURTHER ORDERED, pursuant to Rule 4(m), Fed. R. Civ. P., no later than
15 December 1, 2023, Plaintiff SHALL FILE either summonses returned executed as to each
16 Defendant or a status report setting forth good cause for any requested service extension.

17 IT IS SO ORDERED.

18 Dated: October 30, 2023

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UNITED STATES MAGISTRATE JUDGE